

1 RILEY SAFER HOLMES & CANCELA LLP  
Yakov P. Wiegmann (CSB # 245783)  
2 ywiegmanna@rshc-law.com  
Mishan R. Wroe (CSB # 299296)  
3 mwroe@rshc-law.com  
456 Montgomery Street, 16th Floor  
4 San Francisco, California 94104  
Telephone: (415) 275-8550  
5 Facsimile: (415) 275-8551

6 PLEASE SEE SIGNATURE PAGE FOR  
COMPLETE LIST OF COUNSEL

7 *Attorneys for Plaintiffs*

8 AMERICAN CIVIL LIBERTIES UNION  
IMMIGRANTS' RIGHTS PROJECT and CENTER  
9 FOR GENDER & REFUGEE STUDIES AT THE  
UNIVERSITY OF CALIFORNIA HASTINGS  
10 COLLEGE OF THE LAW

11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

15 AMERICAN CIVIL LIBERTIES UNION  
16 IMMIGRANTS' RIGHTS PROJECT and  
CENTER FOR GENDER & REFUGEE  
17 STUDIES AT THE UNIVERSITY OF  
CALIFORNIA HASTINGS COLLEGE  
18 OF THE LAW,

19 Plaintiff,

20 v.

21 U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT, an agency of the  
22 Department of Homeland Security,

23 Defendant.

Case No. 3:16-cv-06066-JSC

**DECLARATION OF MICHAEL K.T. TAN  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR REASONABLE ATTORNEYS' FEES  
AND LITIGATION COSTS**

Freedom of Information Act, 5 U.S.C. § 552

Hearing Date: January 18, 2018

Time: 9:00 a.m.

Department: Courtroom F, 15<sup>th</sup> Floor

24  
25 I, MICHAEL K.T. TAN, declare and state as follows:

26 1. I am licensed to practice law by the State of New York and am a staff attorney  
27 with the ACLU Immigrants' Rights Project ("IRP"). I am counsel of record for Plaintiffs in the  
28 above-entitled action. I have knowledge of the facts set forth herein, and if called upon to testify

1 as a witness thereto, I could and would competently do so under oath.

2 2. I graduated from Yale Law School in 2008 and served as a Law Clerk to the  
3 Honorable M. Margaret McKeown, U.S. Court of Appeals for the Ninth Circuit, from 2009 to  
4 2010.

5 3. I have been a staff attorney at IRP since 2012. Previously, I was a Skadden Fellow  
6 at IRP from 2010 to 2012 and a Liman Fellow at IRP from 2008 to 2009.

7 4. I am admitted to practice in New York and have been admitted to the bars of the  
8 U.S. Supreme Court, the U.S. Courts of Appeals for the First, Third, Ninth, Tenth, and Eleventh  
9 Circuits, and the U.S. District Courts for the Northern District of California and the Eastern  
10 District of Michigan.

11 5. In 2014, I was named a California Lawyer of the Year in immigration law. In  
12 2016, I was awarded a Best Lawyers Under 40 Award by the National Asian Pacific American  
13 Bar Association. I was also named a Best LGBT Lawyer Under the Age of 40 by the National  
14 LGBT Bar Association in 2017.

15 6. I am one of the country's experts on legal and policy issues related to the federal  
16 immigration detention system. I have served as co-counsel on numerous individual and class  
17 action lawsuits to advance due process protections in immigration detention, including on behalf  
18 of detained asylum seekers. *See, e.g., Rodriguez v. Robbins*, No. 07-03239-TJH-E (C.D. Cal), 591  
19 F.3d 1105 (9th Cir. 2010), 715 F.3d 1127 (9th Cir. 2013), 804 F.3d 1060 (9th Cir. 2015), *cert.*  
20 *granted Jennings v. Rodriguez*, 136 S.Ct. 2489 (2016) (challenging the prolonged detention  
21 without bond hearings of immigrants held in the Central District of California, including arriving  
22 asylum seekers, pending completion of their removal cases); *RILR v. Johnson*, 80 F. Supp. 3d 164  
23 (D.D.C. 2015) (nationwide class action challenging detention of migrant families seeking asylum  
24 based on general deterrence); *Hernandez v. Lynch*, EDCV 16-00620-JGB (KKx), 2016 WL  
25 7116611 (C.D. Cal. Nov. 10, 2016) (challenging the detention of immigrants, including asylum  
26 seekers, based on a lack of financial resources in the Central District of California); *Gayle v.*  
27 *Johnson*, 4 F. Supp. 3d 692 (D.N.J. 2014), 81 F. Supp. 3d 371 (D.N.J. 2015), 838 F.3d 297 (3d  
28 Cir. 2016) (challenging the mandatory detention of individuals with substantial challenges to

1 removal in New Jersey); *Rivera v. Holder*, 307 F.R.D. 539 (W.D. Wa. 2015) (class action  
 2 challenging immigration court's failure to consider detainees for release on recognizance);  
 3 *Khoury v. Asher*, 3 F. Supp. 3d 877 (W.D. Wash. 2014) (challenging the mandatory detention of  
 4 immigrants in the Western District of Washington who were not taken into immigration custody  
 5 upon their release from criminal custody); *Gordon v. Johnson*, 300 F.R.D. 31 (D. Mass. 2014)  
 6 (same, for immigrants detained in Massachusetts); *Preap v. Johnson*, 303 F.R.D. 566 (N.D. Cal.  
 7 2014) (same, for immigrants detained in California); *Reid v. Donelan*, 297 F.R.D. 185 (D. Mass.  
 8 2014), 22 F. Supp. 3d 84 (D. Mass. 2014) (challenging prolonged mandatory detention of  
 9 immigrants held in Massachusetts); *Alli v. Decker*, No. 4:09-cv-00698-JEJ-SF (M.D. Pa), 644 F.  
 10 Supp. 2d 535 (M.D. Pa. 2009), 650 F.3d 1007 (3d Cir. 2011) (same, for immigrants held in  
 11 Pennsylvania).

12 7. Through these cases and others, I have come to develop distinctive knowledge and  
 13 specialized skill in the area of immigrants' rights litigation in the federal courts, and particularly  
 14 litigation regarding the detention system.

15 8. I regularly provide technical assistance to private immigration attorneys and legal  
 16 service providers nationwide who are litigating immigration detention issues, and regularly teach  
 17 continuing legal education ("CLE") courses on immigration detention.

18 9. I also have authored or co-authored articles, book chapters, and reports on  
 19 detention issues. *See, e.g., Jailing the Immigrant Poor: Hernandez v. Sessions* (with Michael  
 20 Kaufman) (forthcoming CUNY Law Review 2017); *Shutting Down the Profiteers: Why and How*  
 21 *the Department of Homeland Security Should Stop Using Private Prisons* (with Carl Takei and  
 22 Joanne Lin) (ACLU 2016); Chapter on "Immigration Detention," *Immigration Law and*  
 23 *Procedure: Desk Edition* (Benders 2015); *Locking Up Immigrants Forever: the "Keep Our*  
 24 *Communities Safe Act" (H.R. 1932)* (Immigration Policy Center 2011).

25 10. I have successfully litigated and resolved numerous Freedom of Information Act  
 26 ("FOIA") requests regarding the immigration detention system. *See, e.g., ACLU v. DHS*, No. 11-  
 27 CV-3786, 2013 WL 6912685 (S.D.N.Y. Dec. 19, 2013) (FOIA regarding custody review process  
 28 over detention of individuals who have received final order of removal).

1           11.     The ACLU is a nonprofit organization with no commercial interest in the data or  
2 documents requested in the subject FOIA request.

3           12.     I spent 30.9 hours working on this litigation as described in Exhibit A to Mishan  
4 Wroe's Declaration in support of Plaintiffs' Motion for Reasonable Attorneys' Fees and  
5 Litigation Costs (plus additional time excluded from Exhibit A).

6           I declare under penalty of perjury under the laws of the state of California and the United  
7 States that the foregoing is true and correct and that this declaration was executed on November  
8 13, 2017, at New York, New York.

9 

10 MICHAEL K.T. TAN

11  
12  
13  
14  
15 4844-6081-9540, v. 3  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28